

Bridgeport, NJ located at 39 48'04" N, 075 21'20" W.

(b) *Definitions.* (1) "Designative Representative" means the Commander of Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on her behalf. (2) "Official patrol" means any vessel assigned or approved by the Captain of the Port Delaware Bay with a commissioned, warrant, or petty officer on board that is displaying a Coast Guard Ensign as well as any assisting local law enforcement vessels.

(c) *Regulations.* (1) Under the general regulations in § 165.23, entry into, transiting, mooring, anchoring, or remaining within this safety zone is prohibited unless authorized by the Captain of the Port Delaware Bay or her representative.

(2) Except for persons or vessels authorized by the Captain of the Port Delaware Bay or her designated representative, no person or vessel may enter or remain in the regulated area.

(3) The operator of any vessel in the regulated area shall: (i) Stop the vessel immediately when directed to do so by any Official Patrol,

(ii) Proceed as directed by any Official Patrol.

(4) The Captain of the Port Delaware Bay can be reached through telephone 215-271-4807.

(5) The Official Patrol enforcing the safety zone can be contacted on VHF-FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) *Effective Period.* This rule is effective in the CFR on August 26, 2010. This rule is effective with actual notice for purposes of enforcement on August 14, 2010. This rule will remain in effect through 10 p.m. on August 28, 2010.

(e) *Enforcement Period.* This rule will be enforced from 6 a.m. to 10 p.m. every Saturday from August 14, 2010 through August 28, 2010.

Dated: August 5, 2010.

**R.T. Gatlin,**

*Captain, U.S. Coast Guard, Acting Captain of the Port Delaware Bay.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0502]

RIN 1625-AA00

#### Safety Zones; Swim Events Within the Sector New York Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing five temporary safety zones for swim events occurring on waters of the Hudson River, East River and Long Island Sound. These temporary safety zones are necessary to protect swimmers, spectators and vessels from the hazards associated with the swim events. Persons and vessels are prohibited from entering into, transiting through, or anchoring within the safety zones unless authorized by the Captain of the Port New York or designated representative.

**DATES:** This rule is effective in the CFR on August 26, 2010 through 11:59 p.m. on September 12, 2010. This rule is effective with actual notice for purposes of enforcement beginning at 03:30 a.m. on July 24, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0502 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0526 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail LTJG Eunice James, Coast Guard Sector New York Waterways Management Division; 718-354-4163, e-mail [Eunice.A.James@uscg.mil](mailto:Eunice.A.James@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment

pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM is impractical as the Coast Guard did not receive notification of the specific location or planned dates for the events in sufficient time to issue an NPRM without delaying this rule making. A delay or cancellation of the events in order to allow for a notice and comment period is contrary to the public interest in having these events occur on schedule. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. In addition to the reasons stated above, this rule is intended to ensure the safety of the event participants, spectators and other waterway users; thus any delay in the rule's effective date would be impractical.

#### Basis and Purpose

These temporary safety zones are necessary to ensure the safety of participants, vessels and spectators from hazards associated with the swimming events and the inherent nature of a large number of swimmers, kayaks, and recreation vessels in the water. Swim events have the potential to result in serious injuries or fatalities. These temporary safety zones are intended to restrict vessels entering the area around the participants to reduce the risk while the swimmers are in the water.

#### Discussion of Rule

Several organizations are sponsoring swimming events within the waters of the Sector New York Captain of the Port Zone, including the Hudson River, the East River and Long Island Sound. The swim events consist of a large number of swimmers, and paddlers crossing the navigable channels.

These events pose significant risks to participants, spectators and the boating public because of the large number of swimmers, kayakers, and recreational vessels that are expected in the area of the event. The temporary safety zones are necessary to ensure the safety of participants, spectators and vessels from the hazards associated with the swim events.

This rule establishes the following temporary safety zones:

(1) A 100-yard radius around the participants of the Swim Across America swim event on the waters of Long Island Sound in the vicinity of Glen Cove, NY and Larchmont, NY.

(2) A 100-yard radius around the participants of Newburgh to Beacon Swim event in the vicinity of Newburgh, NY.

(3) A 100-yard radius around the participants of the Brooklyn Bridge Swim, a swim event on the waters of the East River in the vicinity of Brooklyn, NY.

(4) A 100-yard radius around the participants of the Hudson River Swim for Life, a swim event on the waters of the Hudson River in the vicinity of Nyack, NY and Sleepy Hollow, NY.

(5) A 100-yard radius around the participants of the Toughman Half Triathlon, a swim event on the waters of the Hudson River in the vicinity of Croton Point Park, NY.

#### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

The Coast Guard's implementation of these temporary safety zones will be of short duration and designed to minimize the impact on navigable waters. These safety zones will be of limited duration, and they cover only a small portion of the navigable waterways. Furthermore, vessels may be authorized to transit the zones with permission of the Captain of the Port New York or designated representative.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and

governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in the designated safety zone during the enforcement period of the named swim events.

The safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can safely transit around the zones. Before the effective period, the Coast Guard will issue notice of the time and location of each safety zone through the Local Notice to Mariners and Broadcast Notice to Mariners.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, the Coast Guard did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under figure 2-1, paragraph (34)(g), of the Instruction as this rule involves establishing safety zones. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a new temporary safety zones § 165.T01-0502 to read as follows:

### § 165.T01-0502 Safety Zones; Swim Events within the Sector New York Captain of the Port Zone.

(a) *Location.* The following swim events include safety zones as described herein:

(1) Swim Across America 2010 LIS Swim, Glen Cove, NY to Larchmont, NY.

(i) All waters of Long Island Sound, from surface to bottom, within 100-yard radius around the swimmers swimming from Morgan Park Beach, Glen Cove, NY to Larchmont Shore Club, Larchmont, NY.

(ii) *Effective Date.* This rule will be effective from 5:30 a.m. through 10:30 p.m. on July 24, 2010 and August 14, 2010.

(2) Newburgh to Beacon Swim, Newburgh, NY to Beacon, NY.

(i) All waters of the Hudson River from surface to bottom, within a 100-yard radius around the swimmers swimming from the waterfront at Newburgh, NY to the waterfront at Beacon, NY.

(ii) *Effective Date.* This rule will be effective from 11:30 a.m. to 1:30 p.m. on July 31, 2010.

(3) Brooklyn Bridge Swim, Brooklyn, NY.

(i) All waters of the East River from surface to bottom, within a 100-yard radius around the swimmers swimming in the waters of the East River from Brooklyn Bridge Park to East River Park, Brooklyn.

(ii) *Effective Date.* This rule will be effective from 11:45 a.m. to 1:30 p.m. on September 11, 2010.

(4) Hudson River Swim for Life, Nyack, NY to Sleepy Hollow, NY.

(i) All waters of the Hudson River from surface to bottom, within a 100-yard radius around the swimmers swimming from Nyack, NY to Kingsland Point Park, Sleepy Hollow, NY.

(ii) *Effective Date.* This rule will be effective from 9 a.m. to 12:30 p.m. on September 12, 2010.

(5) Toughman Half Iron Triathlon, Hudson River, Croton Point Park, NY.

(i) All waters of the Hudson River from surface to bottom, within a 100-yard radius around the swimmers swimming in the vicinity of Haverstraw Bay, Croton Point Park, Westchester County, NY.

(ii) *Effective Date.* This rule will be effective from 6 a.m. to 10 a.m. on September 12, 2010.

(b) *Definitions.* The following definition applies to this section: Designated representative means any commissioned, warrant and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, State, and Federal law

enforcement vessels that have been authorized to act on behalf of the Captain of the Port New York.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port New York or a designated representative. Persons desiring to transit within any of the safety zones established in this section may contact the Captain of the Port at telephone number 718-354-4398 or via on-scene patrol personnel on VHF channel 16 to seek authorization.

If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port New York or the designated representative.

(d) *Enforcement period.* This section will be enforced from 3:30 a.m. to 11:59 p.m. on various dates from July 24 to September 12, 2010.

Dated: July 22, 2010.

**G.P. Hitchen,**

*Captain, U.S. Coast Guard, Acting, Captain of the Port New York.*

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R04-OAR-2007-1186-201021; FRL-9193-4]

#### Approval and Promulgation of Air Quality Implementation Plans: Kentucky; Approval Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for the Paducah Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a revision to the Kentucky State Implementation Plan (SIP) concerning the maintenance plan addressing the 1997 8-hour ozone standards for the Paducah 1997 8-hour ozone attainment area, which comprises Marshall County and a portion of Livingston County (hereafter referred to as the "Paducah Area"). This maintenance plan was submitted to EPA on May 27, 2008, by the Commonwealth of Kentucky, and ensures the continued attainment of the 1997 8-hour ozone national ambient air quality standards (NAAQS) through the year 2020. On July 15, 2009, the Commonwealth of Kentucky submitted supplemental information with updated